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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,958	04/08/2005	Alney K Vallotton	048674-0504	9218
26371	7590	04/13/2007	EXAMINER	
FOLEY & LARDNER LLP 777 EAST WISCONSIN AVENUE MILWAUKEE, WI 53202-5306			DEXTER, CLARK F	
		ART UNIT	PAPER NUMBER	
		3724		
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE		DELIVERY MODE	
3 MONTHS	04/13/2007		PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/530,958	VALLOTTON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Clark F. Dexter	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_ is/are allowed.
- 6) Claim(s) 1-20 is/are rejected.
- 7) Claim(s) \_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date: _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/12/05</u> .   | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Information Disclosure Statement***

2. The information disclosure statement filed on August 12, 2005 has been received and the references listed thereon have been considered.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 8-13 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Moser, pn 6,308,420 (hereafter Moser '420).

Regarding claims 1, 2 and 8-12, Moser '420 discloses a tool with every structural limitation of the claimed invention including:

a handle (e.g., 12);

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an implement (e.g., 14) pivotally coupled to the handle, the implement adapted to travel between a closed position and an open position and having a tang with a contoured surface (e.g., 47); and

a spring arm (e.g., 50) having a first end coupled to the handle and a second end adapted to interact with the implement;

wherein the spring arm both exerts an opening force on the implement during at least a portion of the travel of the implement between the closed position and the open position and locks the implement into the open position;

[claim 2] wherein the spring arm exerts the opening force on the implement via contact between the second end and the contoured surface;

[claim 8] wherein the spring arm exerts a closing force on the implement when the implement is in the closed position and the opening force on the implement when the implement is rotated several degrees away from the closed position;

[claim 9] wherein the spring arm exerts the opening force on the implement when the implement is in the open position;

[claim 10 (from 9)] wherein the implement is a blade;

[claim 11] wherein the spring arm is in a plane defined by the implement (e.g., a plane of the contoured surface 47 of the implement);

[claim 12] wherein the implement is a knife blade.

Regarding claims 13 and 17, Moser '420 discloses a knife with every structural limitation of the claimed invention including:

a handle (e.g., 12);

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a blade (e.g., 14) pivotally coupled to the handle, the blade having a closed position and an open position and having a tang with a contoured surface (e.g., 47); and

a spring (e.g., 50) located in a plane defined by the blade (e.g., a plane of the contoured surface 47 of the blade), the spring having a proximal end coupled to the handle and a distal end adapted to exert a force on the blade via contact with the contoured surface;

[claim 17] wherein the spring exerts a closing force on the blade when the blade is in a first position and the spring exerts an opening force on the blade when the blade is in a second position;

5. Claims 1-5, 7-15, 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Seber et al., pn 5,765,247.

Regarding claims 1-5 and 7-12, Seber et al. discloses a tool with every structural limitation of the claimed invention including:

a handle (e.g., including 28);

an implement (e.g., 48) pivotally coupled to the handle, the implement adapted to travel between a closed position and an open position and having a tang (e.g., 46) with a contoured surface (e.g., including 52, 54, 56); and

a spring arm (e.g., 58) having a first end coupled to the handle (e.g., at 60) and a second end (e.g., 62) adapted to interact with the implement;

wherein the spring arm both exerts an opening force on the implement during at least a portion of the travel of the implement between the closed position and the open position and locks the implement into the open position;

[claim 2] wherein the spring arm exerts the opening force on the implement via contact between the second end and the contoured surface;

[claim 3] wherein the spring arm locks the implement into the open position via engagement with a portion (e.g., 62) of the contoured surface;

[claim 4 (from 3)] wherein the spring arm must be manually disengaged (e.g., by pressure on 66) from the portion of the contoured surface prior to rotation of the implement into the closed position;

[claim 5 (from 4)] further comprising an unlocking mechanism (e.g., 66) configured to disengage the spring arm from the contoured surface;

[claim 7] further comprising a leaf spring (e.g., 64) coupled to the handle (e.g., coupled at 66), the leaf spring adapted to bias the spring arm into a position locking the implement into the open position;

[claim 8] wherein the spring arm exerts a closing force on the implement when the implement is in the closed position and the opening force on the implement when the implement is rotated several degrees away from the closed position;

[claim 9] wherein the spring arm exerts the opening force on the implement when the implement is in the open position;

[claim 10 (from 9)] wherein the implement is a blade (e.g., 32);

[claim 11] wherein the spring arm is in a plane defined by the implement;

[claim 12] wherein the implement is a knife blade (e.g., 32).

Regarding claims 13-15, 17 and 18, Seber et al. discloses a knife with every structural limitation of the claimed invention including:

a handle (e.g., 28);

a blade (e.g., 32) pivotally coupled to the handle, the blade having a closed position and an open position and having a tang (e.g., 46) with a contoured surface (e.g., including 52, 54, 56); and

a spring (e.g., 58) located in a plane defined by the blade, the spring having a proximal end coupled to the handle (e.g., the spring 58 consisting of two ends, with the first end including coupling to the handle via 60) and a distal end (e.g., 62) adapted to exert a force on the blade via contact with the contoured surface;

[claim 14] wherein the spring locks the blade in the open position;

[claim 15 (from 14)] further comprising an unlocking mechanism (e.g., 66) configured to release the blade from the open position;

[claim 17] wherein the spring exerts a closing force on the blade when the blade is in a first position and the spring exerts an opening force on the blade when the blade is in a second position;

[claim 18 (from 17)] wherein the first position is any position in the range between the closed position and ten degrees of rotation away from the closed position.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e); (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moser, pn 6,308,420 (hereafter Moser '420).

Regarding claim 19, Moser '420 lacks:

wherein the second position is any position in the range between the open position and ten degrees of rotation away from the closed position.

However, it is respectfully submitted that to provide such a range would be the mere discovery of the optimum or workable conditions of the prior art by routine

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experimentation, based on the desired characteristics, and therefore obvious to one having ordinary skill in the art.

Regarding claim 20, Moser '420 lacks:

wherein the spring comprises a pair of spring arms. However, it would have been an obvious matter of design choice to provide such a spring configuration since applicant has not disclosed that having a pair of spring arms solves any stated problem or is for any particular purpose, and it appears that the spring of Moser '420 would perform equally well using either configuration.

Further, Moser '420 lacks each of the spring arms being approximately half the width of the blade. However, it is respectfully submitted that to provide a spring or spring arms having such a width would be the mere discovery of the optimum or workable conditions of the prior art by routine experimentation and therefore obvious to one having ordinary skill in the art.

8. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seber et al., pn 5,765,247.

Regarding claim 19, Seber et al. lacks:

wherein the second position is any position in the range between the open position and ten degrees of rotation away from the closed position.

However, it is respectfully submitted that to provide such a range would be the mere discovery of the optimum or workable conditions of the prior art by routine experimentation, based on the desired characteristics, and therefore obvious to one having ordinary skill in the art.

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Regarding claim 20, Seber et al. lacks:

wherein the spring comprises a pair of spring arms. However, it would have been an obvious matter of design choice to provide such a spring configuration since applicant has not disclosed that having a pair of spring arms solves any stated problem or is for any particular purpose, and it appears that the spring of Seber would perform equally well using either configuration.

Further, Seber lacks each of the spring arms being approximately half the width of the blade. However, it is respectfully submitted that to provide a spring or spring arms having such a width would be the mere discovery of the optimum or workable conditions of the prior art by routine experimentation and therefore obvious to one having ordinary skill in the art.

9. Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seber et al., pn 5,765,247.

Seber lacks:

[claim 6 (from 5)], [claim 16 (from 15)] wherein the unlocking mechanism is an unlocking latch. However, the use of latches to operate such unlocking mechanisms is old and well known in the art and provides various well known benefits including a desired structural configuration that provides desired mechanical advantages, or to provide an inexpensive, durable element that is replaceable to protect the other components of the device, or to provide a safety mechanism to reduce the possibility of accidentally opening and/or closing the blade. Various examples of the use of such latches exist. Friedman provides one example of a safety latch. Therefore, it would have

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been obvious to one having ordinary skill in the art to provide such a latch on the device of Seber et al. including to gain the well known benefits such as those described above.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Clark F. Dexter  
Primary Examiner  
Art Unit 3724

cfd  
April 2, 2007